

- 411.355 General exceptions to the referral prohibition related to both ownership/investment and compensation.
- 411.356 Exceptions to the referral prohibition related to ownership or investment interests.
- 411.357 Exceptions to the referral prohibition related to compensation arrangements.
- 411.361 Reporting requirements.
- 411.370 Advisory opinions relating to physician referrals.
- 411.372 Procedure for submitting a request.
- 411.373 Certification.
- 411.375 Fees for the cost of advisory opinions.
- 411.377 Expert opinions from outside sources.
- 411.378 Withdrawing a request.
- 411.379 When CMS accepts a request.
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- 411.382 CMS's right to rescind advisory opinions.
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- 411.388 When advisory opinions are not admissible evidence.
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#### **Subpart K—Payment for Certain Excluded Services**

- 411.400 Payment for custodial care and services not reasonable and necessary.
- 411.402 Indemnification of beneficiary.
- 411.404 Criteria for determining that a beneficiary knew that services were excluded from coverage as custodial care or as not reasonable and necessary.
- 411.406 Criteria for determining that a provider, practitioner, or supplier knew that services were excluded from coverage as custodial care or as not reasonable and necessary.
- 411.408 Refunds of amounts collected for physician services not reasonable and necessary, payment not accepted on an assignment-related basis.

AUTHORITY: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

SOURCE: 54 FR 41734, Oct. 11, 1989, unless otherwise noted.

### **Subpart A—General Exclusions and Exclusion of Particular Services**

#### **§ 411.1 Basis and scope.**

(a) *Statutory basis.* Sections 1814(a) and 1835(a) of the Act require that a physician certify or recertify a patient's need for home health services but, in general, prohibit a physician from certifying or recertifying the need for services if the services will be furnished by an HHA in which the physician has a significant ownership interest, or with which the physician has a significant financial or contractual relationship. Sections 1814(c), 1835(d), and 1862 of the Act exclude from Medicare payment certain specified services. The Act provides special rules for payment of services furnished by the following: Federal providers or agencies (sections 1814(c) and 1835(d)); hospitals and physicians outside of the U.S. (sections 1814(f) and 1862(a)(4)); and hospitals and SNFs of the Indian Health Service (section 1880 of the Act). Section 1877 of the Act sets forth limitations on referrals and payment for designated health services furnished by entities with which the referring physician (or an immediate family member of the referring physician) has a financial relationship.

(b) *Scope.* This subpart identifies:

- (1) The particular types of services that are excluded;
- (2) The circumstances under which Medicare denies payment for certain services that are usually covered; and
- (3) The circumstances under which Medicare pays for services usually excluded from payment.

[54 FR 41734, Oct. 11, 1989, as amended at 60 FR 41978, Aug. 14, 1995; 60 FR 45361, Aug. 31, 1995; 66 FR 952, Jan. 4, 2001]

#### **§ 411.2 Conclusive effect of QIO determinations on payment of claims.**

If a utilization and quality control quality improvement organization (QIO) has assumed review responsibility, in accordance with part 466 of this chapter, for services furnished to Medicare beneficiaries, Medicare payment is not made for those services unless the conditions of subpart C of part 466 of this chapter are met.